

SECTION 1 TITLE, CREATION AND ADOPTION

- 1.1 This regulation shall be known as the Gallatin Canyon/Big Sky Zoning Regulation and is adopted specifically for the Gallatin Canyon/Big Sky Planning and Zoning District. The district was created by Resolution #1990-33 of the Board of County Commissioners, Gallatin County, Montana, on May 15, 1990.
- 1.2 Pursuant to Section 76-2-101, MCA there has been created a Planning and Zoning Commission for the Gallatin Canyon/Big Sky Planning and Zoning District which consists of the three County Commissioners, the County Surveyor and a county official appointed by the County Commissioners.
- 1.3 The Planning and Zoning Commission shall have all the powers given to it by the state statutes of the state of Montana and by this regulation.
- 1.4 Pursuant to Section 76-2-101, MCA, there is hereby adopted a development pattern for the Gallatin Canyon/Big Sky Planning and Zoning District consisting of the Gallatin Canyon/Big Sky Plan, Gallatin Canyon/Big Sky Land Use Map, Gallatin Canyon/Big Sky Zoning Regulation, Gallatin Canyon/Big Sky Zoning Map and Gallatin Canyon/Big Sky Capital Improvement Policy.
- 1.5 This regulation is adopted under provision of Section 76-2-101 through Section 76-2-112, MCA., and is intended to be in effect only when adopted under said law in conjunction with a zoning map.

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SECTION 2 PURPOSE

2.1 The purpose of this regulation is to:

- a. Preserve the scenic beauty and natural environment of the District.
- b. Protect significant views.
- c. Protect scenic qualities, fresh air, groundwater, and surface water.
- d. Promote the preservation of wildlife and fish habitat.
- e. Preserve open space as identified in the Plan.
- f. Promote the health, safety, and general welfare of County residents.
- g. Secure safety from fire, panic, and other dangers.
- h. Provide adequate air and light.
- i. Facilitate the adequate provision of transportation, water, sewerage, parks, and other public requirements.
- j. Guard against congestion on the roads.
- k. Prevent overcrowding of land.
- l. Avoid undue concentration of population.
- m. Ensure that the built environment enhances the natural environment.
- n. Encourage good design and orderly growth.
- o. Enhance resort experiences and opportunities.
- p. Preserve and protect property values.
- q. Encourage the development of affordable housing.
- r. Encourage cluster development in and around existing development.

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SECTION 3

APPLICATION OF DISTRICT REGULATIONS

3.1 Except as herein provided in sections 42 and 43, non-conforming uses and non-conforming buildings, and variances; these regulations shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

3.2 Conformance with Zoning Regulation.

- a. No building, structure or land shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless it is in conformity with all of the regulations herein specified for the zoning district in which it is located.
- b. No building or other structure shall hereafter be erected or altered unless it is in compliance with the height, bulk, lot area and setback requirements of this regulation.
- c. No part of any yard, or other open space, or off-street parking required about or in connection with any building for the purpose of complying with this regulation shall be included as part of a yard, open space, or off-street parking similarly required for any other building.
- d. No yard or lot existing at the time of adoption of this regulation shall be reduced in dimension or area below the minimum requirements herein set forth. Yards or lots created after the effective date of this regulation shall meet at least the minimum requirements established by this regulation.
- e. Exceptions: Any public utility pipeline, well or pumphouse necessary for provision of services required for public health and safety, may be exempted from provisions of these regulations by the Zoning Enforcement Agent upon findings that such structures are consistent with the GC/BS Plan and will not create a hardship for other property owners.

(Amended: County Commission Resolution No. 1996-62)

3.3 Applicability to Subdivisions. Only the regulations in effect at the time of the submittal of an application for preliminary plat approval apply to a proposed subdivision. An application for approval of a preliminary plat is deemed submitted to the Board of County Commissioners when a

complete application is submitted to the Gallatin County Planning Office in accordance with the Gallatin County Subdivision Regulations.

- 3.4 Applicability to Land Use Permits. Only the regulations in effect at the time of the filing of an application for a land use permit under Section 42 apply to a proposed development.

- 3.5 Minimum Requirements: In the interpretation and application of these regulations, the provisions of these regulations shall be held to the minimum requirements adopted for the promotion of the health, safety and general welfare of the planning and zoning district. Whenever the requirements of these regulations are at variance with the requirements of any other lawfully adopted rules or regulations or covenants, the most restrictive, or that imposing the higher standards, shall govern.
- 3.6 In accordance with Section 76-2-109, MCA, these regulations shall not apply to lands used for grazing, horticulture, agriculture or the growing of timber.
- 3.7 Land owners are advised that portions of the zoning district are subject to private covenants.

(Amended: County Commission Resolution No. 1997-81)

SECTION 4 INVALIDATION

- 4.1 Invalidation: If any section, subsection, subdivision, sentence, clause, paragraph or phrase of this regulation or any attachments hereto is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of these regulations to render the same operative and reasonably effective for carrying out the main purpose of the regulations.

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SECTION 5 ESTABLISHMENT OF DISTRICTS

- 5.1 Zones. The jurisdiction of the Gallatin Canyon/Big Sky Planning and Zoning District is hereby divided into zones or "districts," as shown on the official zoning map, which map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this regulation.
- 5.2 Certificate. The Official Map shall be available in the County Clerk and Recorder's Office and shall bear a certificate with the signature of the Chairman of the Planning and Zoning Commission attested by the County Clerk and the date of adoption of this regulation. The certificate shall read as follows:

This is to certify that this is the Official Zoning Map
referred to in Section 5.2 of the Gallatin Canyon/Big
Sky Planning and Zoning District regulation

CHAIRMAN, GALLATIN CANYON/BIG SKY
PLANNING AND ZONING COMMISSION

Attested _____

Date of Adoption _____

- 5.3 Changes to the Map. If any changes to the map are made by amendment to these regulations in accordance with Section 39 thereof, such changes shall be made to the Official Zoning Map and signed, dated, and certified upon the map or upon the material attached to the map.
- 5.4 Official Zoning Map. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map kept in the office of the County Clerk and Recorder shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the zoning district. For the convenience of district residents, a copy of the zoning map and regulation may also be kept in the office of the Big Sky Owner's Association (BSOA) and at the Ophir School Library. In the event that there are discrepancies between the official zoning map and the map on file at the BSOA Office or the Ophir School Library, the official map shall prevail.

- 5.5 Interpretations: Subject to the appeals procedure of Section 38 and court appeals, official interpretations of the map and zoning regulation can only be made by the Zoning Enforcement Agent, the Planning and Zoning Commission and the County Commission.

- 5.6 Replacement of Official Zoning Map. In the event the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes or additions thereto, the Planning and Zoning Commission may adopt and certify a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or admissions in the prior map, but no such corrections shall have the effect of amending the original zoning map or any subsequent amendment thereof. The new official zoning map shall include a certificate that reads as follows:

This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted _____ as part of the zoning regulations for Gallatin Canyon/Big Sky Planning and Zoning District, Gallatin County, Montana.

CHAIRMAN, GALLATIN CANYON/BIG SKY
PLANNING AND ZONING COMMISSION

Attested _____

Date of Adoption _____

- 5.7 Interpretation of Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the boundaries shall be interpreted as following the nearest logical line to that shown; where:
- a. Boundaries indicated as approximately following the center line of streets, highways or alleys, shall be construed to follow such center lines.
 - b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - c. Boundaries indicated as following the center line of streams, watercourse, canals, or ditches shall be construed to follow such center lines, even if the river changes course.
 - d. Boundaries indicated as parallel to or extensions of features indicated on the Official Zoning Map shall be determined according to the scale of the map.

- e. Boundaries indicated as following section lines or quarter section lines or quarter-quarter section lines shall be construed as following such lines.

- f. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or where other circumstances or controversy arise over district boundaries, the Zoning Commission shall interpret the district boundary.
 - g. Topographic features shown on the Official Zoning Map are illustrative only.
 - h. Where private covenants (existing as of the adoption date of this regulation) and these regulations are not consistent, the more restrictive provisions shall prevail as interpreted by the Zoning Enforcement Agent.
- 5.8 Interpretation of Uses. If questions arise concerning the appropriate classification of a particular use, or if the specific use is not listed, the County Commission shall determine the appropriate classification for that use.

In interpreting a use classification, the County Commission shall determine:

- a. That the use and its operation are compatible with the uses permitted in the district wherein the use is proposed to be located.
- b. That the use is similar to one or more uses permitted in the district wherein it is proposed to be located.
- c. That the use will not cause substantial injury to values of property in the neighborhood or district wherein it is proposed to be located.
- d. That the intent of the Plan or this regulation will not be abrogated by such classification.

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